



DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-832]

Acrylonitrile-Butadiene Rubber from France: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that acrylonitrile-butadiene rubber (AB rubber) from France is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2020, through March 31, 2021.

DATES: Applicable [Insert Date of Publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Patrick Barton, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0012.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2022, Commerce published its *Preliminary Determination*.¹ Commerce invited interested parties to comment on the *Preliminary Determination*.

For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and

¹ See *Acrylonitrile-Butadiene Rubber from France: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 87 FR 5787 (February 2, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, "Issues and Decision Memorandum for the Final Determination of the Less-Than-Fair-Value Investigation of Acrylonitrile-Butadiene Rubber from France," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Affirmative Determination of Critical Circumstances, in Part

In the *Preliminary Determination*, Commerce preliminarily determined, pursuant to section 733(e) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206, that critical circumstances do not exist with respect to imports of AB rubber produced and exported by Arlanxeo Emulsion Rubber France S.A.S. (Arlanxeo France). However, we preliminarily determined that critical circumstances exist with respect to imports of AB rubber produced and exported by all other producers and exporters from France. For this final determination, we continue to find that critical circumstances do not exist for Arlanxeo France and do exist for all other producers and exporters from France, pursuant to section 735(a)(3) of the Act and 19 CFR 351.206. For a full description of methodology and results of Commerce's final affirmative critical circumstances analyses, *see* Issues and Decision Memorandum.

Scope Comments

On January 26, 2022, we issued the Preliminary Scope Decision Memorandum.³ Interested parties submitted case and rebuttal briefs concerning the scope of this investigation.⁴ For a summary of the product coverage comments and rebuttal responses submitted to the record of this investigation, and accompanying analysis of all comments timely received, *see* the Final Scope Memorandum.⁵ Based on the comments received from interested parties, we are revising

³ *See* Memorandum, "Preliminary Scope Decision Memorandum," dated January 26, 2022 (Preliminary Scope Decision Memorandum).

⁴ *See* ARLANXEO Emulsion Rubber France S.A.S.'s Letter, "Scope Brief," dated February 25, 2022; *see also* Zeon Chemicals L.P. and Zeon GP, LLC (collectively, the petitioner)'s Letter, "Petitioner's Rebuttal Scope Brief," dated March 4, 2022.

⁵ *See* Memorandum, "Antidumping Duty Investigations of Acrylonitrile-Butadiene Rubber from France, the Republic of Korea, and Mexico: Final Scope Decision Memorandum," dated concurrently with, and hereby adopted by, this notice (Final Scope Memorandum).

the scope of this investigation as it appeared in the *Preliminary Determination*.⁶ The scope in the Appendix I reflects these changes.

Scope of the Investigation

The product covered by this investigation is AB rubber from France. For a complete description of the scope of this investigation, *see* Appendix I.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.⁷

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised in the Issues and Decision Memorandum is attached to this notice as Appendix II.

Changes from the *Preliminary Determination*

Based on our analysis of the comments received, we made certain changes to the margin calculation for Arlanxeo France since the *Preliminary Determination*. *See* the Issues and Decision Memorandum for a discussion of these changes.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers or exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined

⁶ *See Preliminary Determination*, 87 FR at 5792. Specifically, we added language to the scope that clarified that AB rubber products that include a third component that is not methacrylic acid or isoprene are not covered by the scope. *See* Final Scope Memorandum.

⁷ *See* Commerce's Letter, "In Lieu of Verification Questionnaire," dated March 17, 2022; *see also* Arlanxeo France's Letter, "Acrylonitrile-Butadiene Rubber from France, Case No. A-427-832: Arlanxeo's In Lieu of On Site Verification Questionnaire Response," dated March 25, 2022.

entirely under section 776 of the Act. In this investigation, Commerce calculated an individual estimated weighted-average dumping margin for Arlanxeo France, the sole mandatory respondent, that is not zero, *de minimis*, or based entirely on facts otherwise available.

Consequently, the rate calculated for Arlanxeo France is assigned as the rate for all other producers or exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Exporter or Producer	Estimated Weighted-Average Dumping Margin (percent)
Arlanxeo Emulsion Rubber France S.A.S.	81.86
All Others	81.86

Disclosure

Commerce intends to disclose the calculations performed in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Consistent with the *Preliminary Determination*, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of AB rubber from France, as described in Appendix I of this notice, which were entered or withdrawn from warehouse for consumption on or after February 2, 2022, the date of publication of the *Preliminary Determination* of this investigation in the *Federal Register*.

Section 735(c)(4) of the Act provides that if there is an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. As

noted above, Commerce finds that critical circumstances exist for imports of subject merchandise produced and/or exported by all other producers and exporters of AB rubber from France. Therefore, in accordance with section 735(c)(4) of the Act, suspension of liquidation shall continue to apply to unliquidated entries of subject merchandise produced or exported by all other producers or exporters that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date of publication of the *Preliminary Determination* in the *Federal Register*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, we will instruct CBP to require a cash deposit for such entries of merchandise equal to the following: (1) the cash deposit rate for the individual companies listed in the table above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a company identified above but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers or exporters will be equal to the all-others estimated weighted-average dumping margin listed in the table above. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Because the final determination in this investigation is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic

industry in the United States is materially injured, or threatened with material injury, by reason of imports of AB rubber from France no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Order

This notice will serve as the only reminder to the parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: June 17, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The product covered by this investigation is commonly referred to as acrylonitrile butadiene rubber or nitrile rubber (AB Rubber). AB Rubber is a synthetic rubber produced by the emulsion polymerization of butadiene and acrylonitrile with or without the incorporation of a third component selected from methacrylic acid or isoprene. AB Rubber products that include a third component that is not methacrylic acid or isoprene are not covered by the scope. This scope covers AB Rubber in solid or non-aqueous liquid form. The scope also includes carboxylated AB Rubber.

Excluded from the scope of this investigation is AB Rubber in latex form (commonly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 4002.51.0000). Latex AB Rubber is commonly either (a) acrylonitrile/butadiene polymer in latex form or (b) acrylonitrile/butadiene/methacrylic acid polymer in latex form. The broader definition of latex refers to a water emulsion of a synthetic rubber obtained by polymerization.

Also excluded from the scope of this investigation is: (a) AB Rubber containing additives incorporated during the compounding, mixing, molding, or use of AB Rubber comprising greater than twenty percent of the total weight of the product. Additives would include, but are not limited to, fillers (*e.g.* carbon black, silica, clay); reinforcement agents (*e.g.* fibers, carbon black, silica); vulcanization agents (*e.g.* sulfur, sulfur complexes, peroxide); or AB Rubber containing extension oils making up greater than forty percent of the total weight of the product. Such products would be generally classified under HTSUS subheading 4005; (b) AB Rubber containing polyvinyl chloride (PVC) making up greater than twenty percent of total weight of the product; (c) hydrogenated AB Rubber (commonly referred to as HNBR) produced by subsequent dissolution and hydrogenation of AB Rubber; (d) reactive liquid polymers containing acrylonitrile and butadiene with amine, epoxy, carboxyl or methacrylate vinyl chemical functionality.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by modifying physical form or packaging with another product, or performing any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the AB Rubber.

The merchandise subject to this investigation is classified in the HTSUS at subheading 4002.59.0000. While the HTSUS subheading numbers are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Final Affirmative Determination of Critical Circumstances, in Part
- IV. Changes Since the *Preliminary Determination*
- V. Discussion of the Issues
 - Comment 1: Whether to Include Stabilizer Type as a Physical Characteristic
 - Comment 2: Whether Certain Home Market Sales are Outside of the Ordinary Course of Trade
 - Comment 3: Whether to Include Further Manufactured Sales in the Margin Calculations
 - Comment 4: Whether to Exclude Fixed Overhead Volume Variance Costs from the Margin Calculations
 - Comment 5: Whether to Use the Quarterly Cost Methodology
- VI. Recommendation

[FR Doc. 2022-13560 Filed: 6/23/2022 8:45 am; Publication Date: 6/24/2022]